

**REMARKS**

This submission is in response to the Restriction Requirement dated September 12, 2006. Claims 27-28, 37-42, and 50-92 are currently pending.<sup>1</sup> Consideration of the above-identified application, in view of the following remarks, is respectfully requested.

**RESTRICTION REQUIREMENT**

The Examiner has required a restriction of the pending claims to one of the following groups:

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|------------|--|
| Group I.   | Claims 27, 28, 82, 85, 86 and 88-91, drawn to crystalline form II, classified in class 546, subclass 321.                      |
| Group II.  | Claims 37-42, drawn to a process of making crystalline form II, classified in class 546, subclass 319.                         |
| Group III. | Claims 51-55, drawn to a process of making crystalline form II, classified in class 546, subclass 320.                         |
| Group IV.  | Claims 56-64, drawn to a process of making crystalline form II, classified in class 546, subclass 314.                         |
| Group V.   | Claims 65-72, 78-81, 83 and 84, drawn to compositions containing crystalline Forms (I) and (II), classified in class 514, 321. |

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<sup>1</sup> Claims 1-26, 29-36 and 43-50 were cancelled in the preliminary amendment filed on February 18, 2004.

Group VI. Claims 73-77, drawn to multiple uses, classified in class 514, various subclasses.

In order to be fully responsive to the Restriction Requirement, Applicants hereby elect to prosecute Group I, corresponding to claims 27, 28, 82, 85, 86 and 88-91<sup>2</sup> and drawn to crystalline form II, for continued examination. Additionally, applicants request that claim 87 be included into Group I.

In accordance with the guidance given by the Commissioner of Patents and Trademarks in 1184 OG 86, the applicants reserve their right to rejoiner of non-elected process or method claims that include all the limitations of the elected product claims of Group I with the elected product claims, prior to a notice of allowance. Moreover, to the extent that crystal form II *per se* is novel, any claim that derives novelty from the inclusion of that substance should be rejoinable as a matter of right.

Applicant reserves the right to file one or more divisional or continuation applications directed to any cancelled subject matter or any other subject matter disclosed in the application but not encompassed by the pending claims.

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<sup>2</sup> Although the Examiner asserts that Group I contains claims 27, 28, 82, 85, 86 and 88-91, applicants respectfully submit that claim 87 is also a member of this group drawn to crystalline form II.

### CONCLUSION

An early and favorable action on the merits of the application is courteously solicited.

If there are any other issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: October 12, 2006

Respectfully submitted,

By   
Andrew O. Larsen

Registration No.: 59,315  
DARBY & DARBY P.C.  
P.O. Box 5257  
New York, New York 10150-5257  
(212) 527-7700  
(212) 527-7701 (Fax)  
Attorneys/Agents For Applicant